

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

CYNTHIA H. MURRAH

PLAINTIFF

V.

CIVIL ACTION NO. 1:18CV69-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

JUDGMENT

This cause is before the Court on the Plaintiff's complaint pursuant to 42 U.S.C. § 405(g) for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration regarding an application for disability insurance benefits and a period of disability. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The Court, having reviewed the record, the administrative transcript, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

For the reasons announced by the Court on the record at the conclusion of the parties' oral argument during a hearing held in this matter today, the Court finds the Commissioner's decision is not supported by substantial evidence. In his decision the ALJ did not address or even mention treating physician Dr. LaGanke's opinion that the plaintiff's impairments and treatment(s) would cause plaintiff to be absent from work more than three times a month. This omission makes it impossible to know whether the ALJ properly considered and weighed a treating physician's medical opinion which, if afforded some weight, would affect the RFC determination and, in turn, the determinations at steps four and five. Pursuant to the Fifth

Circuit's opinion in *Kneeland v. Berryhill*, this legal error is not harmless and resulted in an RFC not supported by substantial evidence. 850 F.3d 749, 758-62 (5th Cir. 2017); *see also* SSR 96-2p (S.S.A.), 1996 WL 374188, *5 (requiring articulation and explanation of weight given to treating source's medical opinion in decision denying benefits). This case is remanded to the Social Security Administration for an evaluation of the plaintiff's application that takes into account all relevant medical opinions of the treating physician and that, if the decision is to deny benefits, explains the weight afforded to those opinions.

This, the 12th day of December, 2018.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE